

## REMARKS

Responsive to the final Office action, applicant has further amended independent claims 1 and 11, and requests reconsideration of the Examiner's § 102(b) rejection of claims 1-6, 9, 11 and 12, and the Examiner's § 103(a) rejection of claims 10 and 13.

First, with respect to formalities, applicant seeks clarification from the Examiner as to whether applicant's previously filed amendment to the specification was accepted, and whether that amendment obviated the Examiner's objection raised in the first Office action.

With respect to the merits, the Examiner rejected claims 1-6, 9, 11 and 12 under 35 U.S.C. § 102(b) as being anticipated by Reinert. In response to applicant's first amendment of independent claims 1 and 11, the Examiner maintained that the rectangular housing member 14 with flanges 16, 17 was secured to a preliminary wall. By the above-identified amendment, applicant is focusing the Examiner's attention on a key distinctive feature of the claimed invention. Specifically, as recited in amended independent claim 1, applicant's "shape structure" includes a "second region that is constructed to form a desired wall surface".

Nowhere does Reinert show or suggest a shape structure with a "second region that is constructed to form a desired wall surface". In Figs. 1-3, Reinert shows a conventional method of securing a wall fixture to a **finished** wall. As described by Reinert, base 13 of fixture 10 is secured substantially flush with the finished wall member. However, unlike applicant's "shape structure", the proposal in Reinert involves cutting an opening in a completed tile wall and positioning housing member 14 so that flanges 16, 17 are disposed on the marginal edges of the tile members adjacent the opening.

The system proposed by Reinert does not utilize housing member 14 to form a desired wall **surface**. Rather, housing member 14 in Reinert is not constructed to form a desired wall surface. That housing member is constructed to receive "cementitious [*sic*] material" as shown in Figs. 2 and 5. Further, wall member 12 is forced into the "cementitious [*sic*] material", and wall member 12 protrudes away from an outer surface as shown best in Fig. 5.

Reinert shows a typical conventional proposal which does not provide for the unique shape structure of applicant's invention that can be efficiently attached to a preliminary wall prior to finishing of the wall.

The Examiner also applies U.S. Patent No. 1,744,187 to Webster in his rejection of claims 10 and 13. The Examiner uses Webster to show what the Examiner believes is a third region for fastening the fixture to the wall. Again, Webster is an example of a typical conventional proposal in which projections 11 and 12 extend into notches formed in a finished wall and are fastened to the finished wall by screws 13, 14.

In summary, neither Reinert nor Webster show or suggest applicant's "shape structure" with a "second region that is constructed to form a desired wall surface". Similarly, amended independent claim 11 recites that the mold includes a "second region that is constructed to form a desired shower wall surface".

The remaining two references cited but not applied by the Examiner are no more relevant than either Reinert or Webster.

Accordingly, applicant respectfully requests allowance of all pending claims and issuance of a Notice of Allowance. If there are any questions regarding this matter, please telephone the undersigned.

Respectfully submitted,

KOLISCH HARTWELL, P.C.

**CERTIFICATE OF E-FILING**

I hereby certify that the attached Response to Notice of Non-Compliant Amendment dated March 30, 2007 and Supplemental Amendment are being electronically filed with the U.S. Patent and Trademark Office, EFS Web Filing System on November 2, 2007.

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